

REMARKS

Claims 1-50 are pending in this application, stand rejected, and are at issue herein. Claim 1 has been amended to correct a typographical error. No new matter has been added. Claims 19, 33, and 47 have been amended as indicated hereinabove. Reconsideration of the rejection of claims 1-50 in view of the foregoing amendments and following remarks and indication of the allowability thereof are respectfully solicited.

The Applicants wish to thank the Examiner for removal of the restriction requirement and examination of all claims in a single application.

The Examiner has rejected claims 19, 33 and 47 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. The Applicants respectfully submit that this ground of rejection has been overcome in view of the foregoing amendments to claims 19, 33, and 47. The Applicants wish to thank the Examiner for pointing out these errors, and respectfully request reconsideration of claims 19, 33, and 47 as amended.

The Examiner has rejected claims 1, 16, 33-36, and 46-48 under 35 U.S.C. § 102(e) as being anticipated by Booth et al. (U.S. Patent No. 6,493,719). As the Examiner is aware, the Booth et al. patent was granted on December 10, 2002, from an application filed July 26, 1999. As such, the foundation for this rejection is based upon the second clause of 35 U.S.C. § 102(e), which precludes patentability where the claimed invention is anticipated by "(2) a patent granted on an application for patent by another filed in the United States before the invention by the Applicant for patent..." However, the Applicants respectfully submit that the Booth et al. '719 patent was not filed in the United States "before the invention by the Applicant for patent" as required by this section. Indeed, the Applicants have submitted herewith a Declaration Under 37 C.F.R. § 1.131 swearing behind the filing date of the Booth et al. '719 reference, and establishing diligence from a time just prior to the filing of the Booth et al. '719 patent until the filing of the present application on February 11, 2000. Reconsideration of this ground of rejection in view of the included Declaration Under 37 C.F.R. § 1.131 and indication of the allowability of claims 1, 16, 33-36, and 46-48 at an early date are respectfully solicited.

The Examiner has also rejected the remainder of claims 1-50 under 35 U.S.C. § 103 based upon a combination of the Booth et al. '719 reference in view of various other references and official notice. However, since the Booth et al. '719 patent does not qualify as a prior art reference against the claims of the present application under any section of 35 U.S.C. § 102, it is not properly used to form an obviousness rejection under 35 U.S.C. § 103. As such, the Applicants respectfully submit that all of these various grounds of rejection

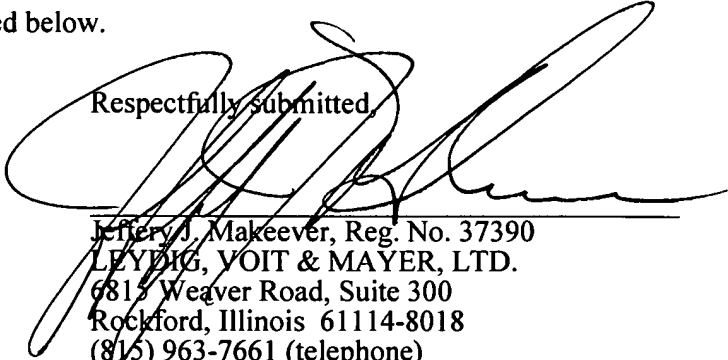
In re Appln. of Kumbalimutt et al.
Application No. 09/502,689

under 35 U.S.C. § 103 of the remaining claims of this application are improper in view of the included declaration under 37 C.F.R. § 1.131.

In view of the above and the included Declaration Under 37 C.F.R. § 1.131 by all of the inventors of the present application swearing behind the Booth et al. '719 patent, and in view of the foregoing amendments overcoming the § 112 rejections to the claims, the Applicants respectfully submit that claims 1-50 stand in condition for allowance. Reconsideration of claims 1-50 and indication of the allowability thereof at an early date are therefore respectfully solicited.

If the Examiner believes that a telephonic conversation will aid in the resolution of any issues not resolved herein, the Applicants invite the Examiner to contact the Applicant's attorney at the telephone number listed below.

Respectfully submitted,



Jeffrey J. Makeever, Reg. No. 37390
LEYDIG, VOIT & MAYER, LTD.
6815 Weaver Road, Suite 300
Rockford, Illinois 61114-8018
(815) 963-7661 (telephone)
(815) 963-7664 (facsimile)

Date: October 22, 2003